

LICENSING ACT 2003 SUB COMMITTEE		AGENDA ITEM No 3
26 May 2010		PUBLIC REPORT
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APPLICATION:	Expedited Summary Review of Premises Licence
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PREMISES:	Shooters Bar 29 New Road, Peterborough, PE1 1FJ
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REFERENCE NUMBER:	MAU 059285
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GLOSSARY OF TERMS:	Attached at Appendix A on Page 4
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1. PURPOSE OF REPORT

- 1.1 To consider and determine an application made by Cambridgeshire Constabulary for an expedited summary review of a Premises Licence under Section 53A of the Licensing Act 2003 for the above premises. A summary review is applicable for premises experiencing serious crime or disorder.

2. BACKGROUND INFORMATION

- 2.1 On the 27 June 2005 an application was made to Peterborough City Council to apply for a conversion and variation of an existing justices licence to a premises licence as per schedule 8 of the Licensing Act 2003. As no representations were received from any of the responsible authorities or from any interested party, the premises licence was granted on the 22 August 2005. At that time the premises was operating as a members only Pool and Snooker Hall with membership rules, with the provision for late night refreshment, indoor sporting events, and the sale of alcohol.
- 2.2 On the 7 November 2007 a variation application was received to remove the membership restriction, to include films, recorded music, anything of a similar description, to provide facilities for entertainment, to include and remove conditions and a variation to the plan to remove the snooker tables and reposition the bar serving area.
- 2.3 The police made representation and a short term mediated condition was added to the licence which restricted the sale of alcohol from 06.00 to 04.00am for three months to evaluate if the change in operating style increased issues of crime and disorder. This mediated condition was removed 5 March 2008, therefore sale of alcohol was permitted until 06.00.
- 2.4 No other representations were received from any other responsible authority or interested party and the licence was granted 7 December 2007. A copy of the current premises licence is attached at **Appendix B Page 7**.

- 2.5 A review application was served by Cambridgeshire Constabulary on the 18 February 2010, under the prevention of public nuisance, public safety and prevention of crime and disorder objectives.
- 2.6 An application to vary the Designated Premises Supervisor (DPS) was received on 4 March 2010, this application was to remove Mr Graham McMillan as the DPS and make Mr Thomas Pick the current DPS with immediate effect.
- 2.7 The review application (mentioned in 2.3) was determined by the licensing sub committee on 28 April 2010, the sub committee's decision was to revoke the premises licence. A copy of the decision notice is attached at **Appendix C Page 21**.

3. APPLICATION

- 3.1 In accordance with section 53A of the Licensing Act 2003 following the submission of an application for a summary review of the premises licence and the certificate signed by a superintendant from Cambridgeshire Constabulary, the licensing authority must consider if it is necessary to take interim steps within 48 hours.
- 3.2 A consideration hearing took place on the 5 May 2010 where the licensing sub committee determined the interim steps to be applied as per section 53B of the Act. The sub committee's decision was to suspend the premises licence. A copy of this decision is attached at **Appendix D Page 29**.
- 3.3 The holder of the premises licence made representations appealing the decision of the interim step to suspend the premises licence. The appeal letter can be found at **Appendix E Page 33**.
- 3.4 The licensing sub committee met again on 7 May 2010 to consider the representations of the premises licence holder to appeal the suspension. The sub committee determined that no modification to the original decision to suspend the licence was required. A copy of this decision can be found at **Appendix F Page 37**.
- 3.5 A copy of the application for summary review and the accompanying certificate under section 53A, which was received at these offices on 30 April 2010 is attached at **Appendix G Page 39**.
- 3.6 A copy of the 'Notice' that was displayed on the premises in accordance with Part 5 no. 38 of Statutory Instruments 2005 No. 42 – The Licensing Act 2003 (Premises Licences and Club Premises Certificates) Regulations 2005 (as amended by the Violent Crime Act 2006 and Statutory Instruments 2007 No 2502) is attached at **Appendix H Page 45**.

4. Summary of issues raised by Cambridgeshire Constabulary

The summary review has regard to serious disorder occurring on the 30 April 2010, involving between 15 and 20 people where 4 persons were arrested. Cambridgeshire constabulary were concerned that further incidents of serious disorder would continue to take place during the appeal period and recommended that the interim step should be to suspend the premises licence.

5. LICENSING OFFICERS COMMENTS

- 5.1 The decision of the committee to revoke the premises licence on 28 April 2010 does not have effect until the end of the period given for appealing against the decision (21 days), or if the decision is appealed against, until the appeal is disposed of, therefore the premises may remain open.
- 5.2 If the premises licence holder does not appeal the licensing sub committee's decision (made on 28 April 2010) to revoke the premises licence on or before 21 May, the committee's decision will stand and the premises licence will be revoked.

6. POLICY & GUIDANCE IMPLICATIONS

6.1 The following sections/paragraphs are applicable to this application:

6.2 Council's Statement of Licensing Policy

- Other legislation: *Section 10 on Page 14*
- Fundamental Principles: *section 6 on Page 9*
- Reviews: *section 15 on Page 18*
- Delegation / Decision Making / Administration: *Section 16 page 18*

6.3 Guidance Issued under Section 182 of the Licensing Act 2003 (March 2010)

- The licensing objectives: *Section 2 pages 16 to 23*
- Reviews: *Section 11 pages 97 to 100*
- Determining applications: *Section 9 pages 76 to 80*

7. LEGAL OFFICER'S COMMENTS

7.1 The Licensing Authority (hereafter referred to as "the Council) is charged with implementing the provisions of the Licensing Act 2003. This is an application for a summary review of a premises licence following the application by Cambridgeshire Constabulary (Responsible Authority) to review the premises licence made under section 53A of the Licensing Act 2003.

7.2 In this case, the application was received at these offices on 30 April 2010. It is very unusual for a Licensing Authority to conduct a summary review of a premises licence whilst that licence is under suspended revocation due to a previous review within the 21 day appeal period. In this case, it may be the position that the licence holder does not wish to appeal, therefore the committee will still meet to make a determination over a licence that effectively does not exist due to revocation. In a recent High Court judgment, the court determined that a licensing sub-committee once their discretion is invoked and a hearing is to take place, there can be no inherent power to stay proceedings under the Act. This means that the sub-committee must convene and must make a determination.

7.3 The application before this committee will consider –

- (i) The application to review the licence,
- (ii) Any relevant representations

7.4 The committee will take such of the steps as it considers that action is necessary for the promotion of the licensing objectives. The steps are –

- (a) to modify the conditions of the premises licence
- (b) to exclude a licensable activity from the scope of the licence
- (c) to remove the designated premises supervisor from the licence
- (d) to suspend the licence for a period not exceeding three months, or
- (e) to revoke the licence
- (f) to adhere to the decision of 5th and 7th May 2010 or amend that decision.

and for this purpose the conditions of the licence are modified if any of them is altered or omitted or any new condition is added.

LICENSING ACT 2003 GLOSSARY OF TERMS

Note: In this document, the following definitions are included to provide an explanation of certain terms included in the Act. In some cases they are an abbreviation of what is stated in the Licensing Act 2003 or an interpretation of those terms. For a full definition of the terms used, the reader must refer to the Licensing Act 2003.

‘Child’

(a) means an individual aged under 16

(b) a child is unaccompanied if he is not in the company of an individual aged 18 years or over

DCMS: Department for Culture Media and Sport

‘Designated Premises Supervisor’ means the person (who must be a Personal Licence Holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder.

‘Interested parties’:

- a person living in the vicinity of the premises in question;
- a body representing persons living in that vicinity, e.g. a residents association;
- a person involved in a business in the vicinity of the premises in question;
- a body representing persons involved in such a business e.g. a trade association.

‘Late Night Refreshment’ means the supply of hot food or hot drink to members of the public (whether for consumption on or off the premises) between the hours of 11.00 pm and 5.00 am.

‘Licensable Activities’ means: -

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of Regulated Entertainment
- The provision of Late Night Refreshment

‘Licensing Authority’: - is the licensing function of Peterborough City Council

‘Licensed Premises’ includes club premises and events unless the context otherwise requires.

‘Licensing Objectives’

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

‘Operating Schedule’ means a document containing a statement of the following matters (and any others that may be prescribed): -

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as the Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises

- The steps being taken to promote the Licensing Objectives

‘Rateable Value’: as regards a premises, is the value for the time being in force for the premises entered in the local non-domestic rating list for the purposes of Part III of the Local Government Finance Act 1988(b).

‘Regulated Entertainment’ (Schedule 1 of the Act) means: -

- A performance of a play
- An exhibition of a film
- An indoor sporting event
- A boxing or wrestling entertainment
- A performance of live music
- Any playing of recorded music
- A performance of dance

Or entertainment of a similar description falling within the last three of the categories listed above, where the entertainment takes place in the presence of and for the purposes of entertaining that audience or spectators.

Or the provision of entertainment facilities:

Facilities for enabling persons to take part in entertainment of the following description for the purpose or purposes, which include the purpose of being entertained:

- making music
- dancing
- entertainment of a similar description

‘Relevant Licensing Authority’: is the Authority in the area the premises are situated.

‘Responsible Authority’ means any of the following: -

- Cambridgeshire Constabulary (The Chief Officer of Police)
- Cambridgeshire Fire and Rescue (The Fire Authority)
- Health and Safety Team, Peterborough City Council
- Planning authority, Peterborough City Council
- Trading Standards, Peterborough City Council
- Environmental Health – Pollution, Peterborough City Council
- Children’s Services – Child Protection & Review Manager
- Maritime & Coastguard Agency, Walton on Naze. (For vessels carrying more than 12 passengers.)
- Environment Agency, Peterborough (For vessels carrying 12 or less passengers).

‘Supply of alcohol’:

- the sale by retail of alcohol, or
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club.

‘Temporary Event Notice’ means a Permitted Temporary Activity involving one or more Licensable Activities subject to the following various conditions and limitations: -

- Duration – they are limited to events lasting for up to 96 hours;
- Scale – they cannot involve the presence of more than 499 people at any one time;
- Use of the same premises – the same premises cannot be used on more than 12 occasions in a calendar year, but are subject to the overall aggregate of 15 days irrespective of the number of occasions on which they have been used; and

- The number of notices given by an individual within a given period of time – a Personal Licence Holder is limited to 50 notices in one year, and another person to 5 notices in a similar period.

(In any other circumstances, a full Premises Licence or Club Premises Certificate will be required for the period of the event).

‘the Act’: means the Licensing Act 2003

‘Vicinity’: Given the normal everyday meaning of being ‘near to’ when considering the relevance of representations received from individual’s residence or business.

Licensing Act 2003\glossary of terms 13 March 2007